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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,044

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Stefan Becker

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04/18/2007

ALSTON & BIRD LLP

BANK OF AMERICA PLAZA

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EXAMINER

TENTONI, LEO B

ART UNIT

PAPER NUMBER

1732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/691,044

Applicant(s)

BECKER, STEFAN

Examiner

Leo B. Tentoni

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 9, line 9, the expression "significant crimp" is not supported by the originally-filed specification and thus, constitutes new matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and

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distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 9, the expression "significant crimp" renders the claim indefinite principally because it is not clear what applicant intends to cover by such a recitation (e.g., it is not clear exactly what amount of crimp constitutes "significant" crimp).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1).

Baader (see the entire document, in particular, the English-language abstract; Figures 1-3) teaches a process of making a yarn including the steps of melt spinning at least one filament, cooling the at least one filament and form a yarn, drawing the yarn, compressing the yarn while heating the yarn to form a plug, disentangling the plug under tension to reduce

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crimp and winding the yarn into a package. At Figure 2, numeral 13, Baader shows reducing crimp, which meets the limitation of removing significant crimp. Baader does not explicitly teach making a flat yarn; however, this would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Baader principally because Baader teaches reducing crimp, and a further reduction in crimp to the point of crimp removal would yield a flat yarn.

7. Claims 15, 16, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A).

Baader (see the entire document, in particular, the English-language abstract; Figures 1-3) teaches an apparatus for making a yarn including a melt spinning device, a cooling zone, a draw zone, a relaxation device and a yarn takeup device as claimed, except that Baader does not explicitly teach that the yarn takeup device is such as to remove any crimp from the yarn, which is taught by Nelson (see the entire document, in particular, col. 4, lines 20-33) and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the apparatus of Baader in view of Nelson principally in order to remove entanglement between yarn filaments to manufacture a desired yarn product.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baader (DE 10100762 A1) in combination with Nelson (U.S. Patent 4,059,873 A) as applied to claims 15, 16, 11 and 12 above, and further in view of Eskridge et al (U.S. Patent 4,095,317 A).

Eskridge et al (see the entire document, in particular, col. 6, line 49 to col. 8, line 16) teaches an apparatus for making a yarn including a feed nozzle (for feeding a tempered fluid medium) upstream of a stuffer box chamber, wherein the stuffer box chamber has a gas-permeable section, and such would have been obvious to one of ordinary skill in the art at the time the invention was made in the apparatus of Baader in view of Eskridge et al principally in order to form a yarn plug.

Allowable Subject Matter

9. Claims 1-8 are allowable over the prior art references presently of record.

Response to Arguments

10. Applicant's arguments filed on 15 February 2007 have been fully considered but they are not persuasive.

11. With respect to apparatus claims 11-15, the recitation (in independent claim 15) of a "flat yarn" is of no patentable significance because apparatus claims must be distinguished over prior art apparatuses based on apparatus structure, not function

or product made (MPEP 2114). Note that the combination of Baader and Nelson renders obvious the subject matter of claims 15, 16, 11 and 12 because Baader teaches the claimed apparatus structure, except for a yarn takeup device to remove all crimp, which structure is taught by Nelson.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Leo B. Tentoni

Leo B. Tentoni
Primary Examiner
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